

the term "FCIC" in the definition of "agency," and "or the FCIC Regional Service Office" in the definition of "final decision."

§ 780.2 [Amended]

4. In § 780.2:

a. Amend paragraph (a)(2) to remove the initials "FCIC" wherever they appear.

b. Remove paragraphs (a)(1)(iii), (a)(1)(iv), and (a)(3).

§ 780.7 [Amended]

5. In § 780.7:

a. Amend the to remove the phrase "and reconsideration with the regional service offices."

b. Amend §§ 780.7(b), (c) and (e), to remove the phrase "or the Regional Service Office," wherever it may appear.

§ 780.11 [Amended]

6. Amend § 780.11 to remove the words "FCIC," and "the Manager of FCIC," wherever they may appear.

Signed in Washington, DC, March 15, 2002.

Ross J. Davidson, Jr.,

Manager, Federal Crop Insurance Corporation.

James R. Little,

Administrator, Farm Service Agency.

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 362 and 381

[Docket No. 01-045F]

RIN 0583-AC84

Mandatory Inspection of Ratites and Squabs

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is affirming the interim final rule that it published on May 7, 2001 (66 FR 22899) that amended the Poultry Products Inspection Regulations and the Voluntary Poultry Inspection Regulations to make the slaughtering and processing of ratites and squabs subject to mandatory inspection. The Agency acted in response to the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act (the Appropriations Act). The Agency invited interested parties to comment on

the interim final rule. FSIS is also making minor clarifying modifications to the regulations concerning ratites and squabs and is extending for an additional 12 months the time allowed for foreign countries to become equivalent for exporting ratites or squabs to the United States.

DATES: This final rule will be effective April 22, 2002.

FOR FURTHER INFORMATION CONTACT: For information about the final rule, contact Robert Ragland, DVM, Acting Director, Inspection and Enforcement Standards Development Staff, Office of Policy, Program Development, and Evaluation, FSIS, U.S. Department of Agriculture, Room 202, Cotton Annex, 300 12th Street, SW, Washington, DC 20250-3700, (202) 720-3219.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 2001, the Food Safety and Inspection Service (FSIS) published an interim final rule (66 FR 22899) that amended the Poultry Products Inspection Regulations (Part 381) and the Voluntary Poultry Inspection Regulations (Part 362) to include ratites and squabs under the mandatory poultry products inspection regulations. (The interim final rule was originally published on May 1, 2001 (66 FR 21631), but had to be republished on May 7, 2001 because of printing errors.) The Agency acted in response to the FY 2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act (the Appropriations Act), signed by the President on October 28, 2000, which provided that 180 days after the date of its enactment, U.S. establishments slaughtering or processing ratites or squabs for distribution into commerce as human food will be subject to the requirements of the Poultry Products Inspection Act (21 U.S.C. 451, *et seq.*) (PPIA), rather than the voluntary poultry inspection program under section 203 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622) (AMA). That provision of the Appropriations Act was effective on April 26, 2001.

Import Inspection

In the interim final rule FSIS allowed foreign countries 18 months from the effective date (April 26, 2001) to become equivalent for exporting ratites and squabs to the U. S. Thus, foreign countries had until October 26, 2002 to do so. FSIS is now extending this time for an additional 12 months to allow countries exporting or wanting to export ratite and squab products to go through

the equivalency process. A 12 month extension is being granted because the original 18 month period has proved to be inadequate to complete both the equivalence evaluations and the notice and comment period rulemaking that are necessary to complete an equivalence process. The extended effective date will now be October 26, 2003.

FSIS will make equivalency determinations in accordance with 9 CFR part 327. If FSIS finds the country's export inspection system to be equivalent to the U.S. domestic inspection system, FSIS will publish a proposal in the **Federal Register** to list the country as eligible to export ratites or squabs to the United States. After the public has had 60 days to comment on the proposed rule, FSIS will review all of the public comments and make a final determination of equivalency and a determination whether to list the country as equivalent and, therefore, eligible to export ratites or squabs to the United States. This determination will be announced in a final rule in the **Federal Register**, along with FSIS's responses to the public comments. At that time, the country's inspection service may certify establishments for export of ratites and squabs to the United States. In the interim final rule FSIS also set out what countries exporting or wanting to export ratites and squabs needed to do prior to receiving an equivalency determination. These instructions remain unchanged.

Comments on the Interim Final Rule

FSIS provided 60 days for public comment on the interim final rule, ending July 2, 2001. The Agency received comments from industry groups, the European Union, and one individual. FSIS addresses their specific comments.

Comment: The commenters took issue with the definition of "squab" as a "young flightless pigeon." They pointed out that this definition is not always correct and is unenforceable. The commenters requested that the definition of "squab" be changed to a "young pigeon from one to about thirty days of age," the definition used by Wendell Levi in his authoritative book, *The Pigeon*.

Response: FSIS agrees that program inspection personnel have no way of distinguishing between squabs that have flown and those that have not flown and, therefore, is changing the definition of "squabs" to "young pigeons from one to about thirty days of age."

Comment: Commenters stated that the Agency made a mistake including just

squabs and not all pigeons under the mandatory poultry products inspection regulations because such was the clear intent of the Congress to include all pigeons under the PPIA.

Response: The Agency disagrees. The Appropriation Act states specifically that “squabs” are to be inspected under the PPIA. It does not mention pigeons.

Comment: The European Union (EU) commented that because of the Sanitary Phytosanitary (SPS) equivalence agreement between the EU and the United States (U.S.), FSIS should not certify individual nations in the EU, but rather the Agency should consider the EU as a single entity.

Response: The U.S. and the EU have signed an agreement that establishes a mechanism for the recognition of equivalent sanitary measures maintained by either party (Agreement between the European Community and the United States of America on sanitary measures to protect public health in trade in live animals and animal products commonly called the “Veterinary Equivalence Agreement” or “VEA”). Initially, the Agreement is limited to those sanitary measures enumerated by both parties in an Appendix to the Articles. The Agreement itself is not a blanket recognition of mutual equivalence. Thus, there is no basis for treating the EU as a single exporting country of ratites or any other poultry species.

While the U.S. has agreed in principle that EU poultry standards are equivalent to those of the United States, no final determination has been made that they meet the level of protection that the U.S. deems appropriate. In the interim, the U.S. will continue to accept poultry products from EU Member States that were judged equivalent prior to signing of the VEA. Other Member States may demonstrate that they also have equivalent poultry inspection systems.

In order to make additional poultry equivalence determinations, the U.S. will require documentation (1) that all applicable EU poultry directives have been transposed into country legislation, as is required by EU law, and (2) that they have implemented EU standards appropriately. In addition, a Member State would also need to demonstrate that U.S. pathogen reduction and HACCP requirements—which are not covered by the VEA—have been assimilated into its poultry inspection system and are being implemented in an equivalent manner. Certain other U.S. regulatory import requirements must be met as well.

Comment: One commenter supported any legislation that would increase the consumption of emus.

Response: As is stated in the Regulatory Impact Analysis, the mandatory inspection of ratites and squabs should lead to increased consumption of ratites and squabs.

Summary of the Final Rule

FSIS is affirming the interim final rule on the mandatory inspection of ratites and squabs (66 FR 22899). FSIS is also extending the date for foreign countries to become equivalent for exporting ratite and squabs to the United States for an additional 12 months. The new date will be October 26, 2003. The Agency is also amending the paragraph in § 381.1(b) that defines poultry by changing the definition of squabs from “young pigeons that have not flown” to “young pigeons from one to about thirty days of age.” FSIS is also modifying § 381.71 (b) by removing the word “carcasses” from the first sentence of this paragraph to make the language clearer. Moreover, the Agency is adding further information to § 381.94 on the *E. coli* testing and sampling for ratites and squabs as it does for other species under mandatory inspection. This information

makes explicit the fact that FSIS has not established specific performance standards for *E. coli* testing of either ratites or squabs.

Regulatory Impact Analysis

Basis for Regulatory Action

The interim final rule amended § 362.1(d) by removing squab from the definition of poultry in the Voluntary Poultry Inspection Regulations and amended Part 381 to include ratites and squabs under the Agency’s mandatory poultry inspection requirements.

Baseline

Ratites and squabs are now amenable species and are inspected by the Agency under the mandatory poultry inspection regulations. These species are also inspected under State programs. Ratites are an order of flightless birds that includes ostriches, emus, rheas, cassowaries, and kiwis. The most economically important species of ratites are the ostrich and the emu. Squabs are young pigeons from one to about thirty days of age. Ratite meat and squab meat are valued for their flavor and nutritional characteristics.

Since 1992, when FSIS first granted a request for voluntary inspection for ostriches, approximately 166 establishments have been issued a grant of inspection for ratite operations. Currently, approximately 100 establishments possess a grant of inspection. In 1999, there were a total of 48,286 (76%) ratites inspected in Federal establishments, and 14,427 (24%) ratites inspected in State establishments, or a total of 62,713 ratites inspected (Table 1). Ostriches made up the largest share (69%) of the ratites inspected under the Federal program, whereas emus made up the largest share (56%) of the ratites inspected under State programs.

TABLE 1.—RATITES AND SQUAB INSPECTION VOLUME AND ESTABLISHMENTS, FY 1999

Species	Federal establishments		State establishments		Total inspected
	Number inspected	Percent of total	Number inspected	Percent of total	
Ratites:					
Ostrich	33,521	86	5,254	14	38,775
Emu	14,745	64	8,068	36	22,813
Other	20	2	1,105	98	1,125
Ratites:					
Total	48,286	76	14,427	24	62,713
Squabs	175,496	14	1,122,131	86	1,297,627
Totals	223,782	16	1,136,558	84	1,360,340
Ests	Number		Number		
Squabs	2		2		
Ratites	99		95		

In 1999, States with a large share of ratites inspected under the Federal program were California, Georgia, Illinois, Louisiana, Oklahoma, and Texas. Alabama, California, Mississippi, North Carolina, Ohio, and Texas inspected a large share of ratites under State programs. There were almost an equal number of establishments involved in slaughter of ratites under the Federal (99) and State (95) inspection programs.

Ostriches

Ostrich is the largest bird in the world, standing about seven to eight feet tall and weighing 300–400 pounds when fully grown. Industry representatives indicate that there were about 600 ostrich growers 1998, down from 1000 growers in 1996. There is significant uncertainty about the annual production of ostriches and other ratites at this time.

Ostriches are slaughtered at an average age of 12 months. The average weight at slaughter is 350 pounds. Ostrich meat is sold as steaks, fillets, medallions, roasts, and ground meat. Because of their size ostriches are currently slaughtered in establishments that are equipped to process other red meat species such as cattle, sheep, goats, and swine.

Emus

A mature emu reaches a height of 5 to 6 feet, weighing 90 to 120 pounds. In 1999, 22,813 emus were inspected under Federal and State programs (Table 1). There are a number of valuable products derived from emus in addition to their meat.

There is also significant uncertainty about the annual production of emus. Some sources indicate that there may be as many as 500,000 birds on 5,000 to 6,000 farms in the U.S., with the majority of them in Texas, Oklahoma, and elsewhere in the Southwest.

Squabs

Squabs are young pigeons from one to about thirty days of age. Squabs usually weigh 1 pound or less at the time of slaughter (about 4 weeks old). In 1999, California and Oregon were the only two States that inspected squabs under the Federal voluntary inspection program. In that year, 175,496 squabs were inspected (Table 1). During that same period 1,122,131 squabs were inspected under the State inspection programs of California and South Carolina.

Regulatory Alternatives

FSIS considered two options in developing its interim final rule. The

first option was to only change the definition of “poultry” in the Poultry Products Inspection Regulations to include ratites and squabs. This approach may have caused confusion in the industry because it would be difficult to apply some of the current poultry regulations to ratites and squabs, e.g., chilling and certain handling requirements.

The Agency’s second option was to make the changes required by statute and other changes as noted above. FSIS selected this option because it provided a more orderly transition from voluntary inspection to mandatory inspection of ratites and squabs than the first option at little or no additional cost. The Agency is now affirming this option in this final rule.

Benefits

There are three primary benefits that may result from extending mandatory inspection services to ratites and squabs: industry growth, public health, and industry cost savings.

Having the mark of inspection on ratite and squab products will likely lead to greater consumer confidence and acceptance of the products. Demand would be expected to increase as a result. Establishments that are able to capitalize on the change in consumer preference would realize increased sales of these products. To the extent that inspection promotes growth in the ratite and squab industry, society could benefit also from the increased employment and earnings of workers in these establishments. Studies are not available to identify the potential growth in the industry that may occur.

The public health benefits of inspection are related to the reduction in risk associated with consumption of all ratite and squab meat that must be inspected using the same procedures employed in the meat and poultry industries. HACCP systems, Sanitation SOPs, and process control practices have been shown to reduce contamination by harmful foodborne pathogens.

A shift to the mandatory inspection system eliminated the payment of fees for inspection services. This is not a benefit from an economic perspective as the costs of inspection are transferred elsewhere in the economy. Since FSIS is recovering these costs through appropriated funds, the change to a mandatory inspection system results in an income transfer from the public to the ratite and squab industry. The total cost savings to the industry will be about \$2 million in 2001, with the possibility of increasing over time with the expansion of the industry.

Industry Costs

The compliance cost of extending mandatory inspection to ratite and squab species is negligible. All establishments involved in slaughtering amenable species, as of January 25, 2000, must be in compliance with the provisions of Pathogen Reduction/Hazard Analysis Critical Control Point (PR/HACCP) final rule. Under the provisions of the rule, all slaughter establishments under mandatory inspection are required to have HACCP plans and meet process control requirements. Nearly all establishments that slaughter and process ratites and squabs, because they also slaughtered other species under mandatory inspection, had already implemented HACCP, Sanitation SOPs, and other measures consistent with mandatory inspection. These establishments were required under the interim final rule to make changes to their HACCP or sanitation procedures to include ratites and squabs. The Agency estimates that establishments that had not included ratites and squabs in their HACCP plans¹ incurred a minimal cost of \$500.00 associated with HACCP plan modification.

Because poultry is subject to mandatory Federal inspection, ratites and squabs are now subject to *E. coli* testing requirements. Establishments that slaughter more than one kind of poultry and livestock are required to test the species that the establishment slaughters in the greatest number. Agency research indicates that the number of establishments where ratites and squabs are the species being slaughtered in the greatest number is very low. Consequently, very few establishments are being required to perform additional *E. coli* testing for process control verification. The costs per establishment for *E. coli* testing are shown in Table 2.

For those establishments that slaughtered and processed ratites and squabs under voluntary inspection, the transition to mandatory inspection did not require changes in equipment and processing methods. Ratites are currently being slaughtered and processed in establishments that are equipped to process cattle, sheep, goats, and swine. Squabs are processed using the same equipment and procedures as those used for young chickens.

The Agency estimates that 50% of the Federal establishments (50 establishments) and 25% of the State establishments (24 establishments) made minor changes in their HACCP

¹ HACCP plans are not required to cover non-amenable species.

plan to accommodate mandatory inspection requirements for ratites.

TABLE 2.—POTENTIAL COSTS FOR MANDATORY FEDERAL INSPECTION

Costs	Per est. (dollars)	Industry (\$thousand)
Start up Cost:		
HACCP Plan Modification	500	37.0
SSOP Modification	100	7.4
Recurring Cost:		
E. coli Sampling (26 samples@\$20 per sample per establishment)	520	38.5
Recordkeeping	300	22.2
Total	1,420	105.1

Another cost that applies to all establishments applying for Federal mandatory inspection is the application cost. This cost is negligible, as it is limited to a one-time cost for filling out an application, about \$10. The total compliance cost to the establishments identified above are estimated to be \$105,100.

FSIS Costs

The Agency anticipates the need to conduct baseline microbiological studies. These studies constitute the major costs to the Agency totaling \$205,000.

Microbiological Testing

The microbiological studies will help the Agency determine the prevalence of harmful bacteria or pathogens in ratites and squabs. These studies can also be used to develop performance standards for pathogen reduction. The cost of a microbiological baseline testing for ratites will be \$110,000 and for squabs, \$95,000 (Tables 3 and 4).

TABLE 3.—COST TO FSIS OF A MANDATORY RATITE INSPECTION PROGRAM

One-time costs	Inspection hours	\$Thousand
Microbiological Baseline		110.0
Transfer Payment ¹ : Federally-Inspected Ests	38,524	\$1,959.0

¹ The hourly rate for Federal inspection in FY 2000 is estimated to be \$38.44 per hour.

TABLE 4.—FSIS MANDATORY SQUAB INSPECTION PROGRAM COSTS

One-time costs	Inspection hours	\$Thousand
Microbiological Baseline		95.0
Transfer Payment ¹ : Federally-Inspected Ests	322	16.4

¹ The hourly rate for Federal inspection in FY 2000 is estimated to be \$38.44 per hour.

Transfer Payments

Under voluntary inspection, establishments pay for inspection services. The funds for mandatory inspection activities are appropriated from Federal tax revenues. The transition from voluntary to mandatory inspection changes the source of inspection program funding. The Agency estimates that the industry cost of inspection of ratites and squabs for 1999 in Federal establishments was \$1,975,000, of which ratites accounted for \$1,959,000 and squabs for \$16,400, including overhead (Tables 3 and 4).

With ratite and squab inspection mandatory, it is possible that the volume of ratites and squabs inspected at Federally inspected establishments will increase beyond what is currently being inspected. An establishment that was under a State inspection program that shipped ratites and squabs in interstate commerce had to shift to Federal inspection to maintain its markets. It is expected that 25% of the establishments that were under State voluntary inspection will migrate to the Federal mandatory program. This

analysis does not take into account the potential increase in the demand for inspection services. Both species currently account for an extremely small share of meat and poultry inspection. Changes in the required level of inspection program personnel are not expected to be significant in the near-term.

The estimated total cost of inspection in State establishments was \$554,400 for 14,427 ratites and 1,122,131 squabs for FY 1999. Under the agreement the Agency formerly had with a State having a voluntary inspection program, the Agency paid half of the inspection program costs, or \$277,191 (Table 5).

Under the mandatory program, States no longer are able to collect fees for inspection services. States may decide to terminate their ratite and squab inspection programs. If terminations occur, FSIS will take over inspection at the facilities operating under the State program and thereby absorb the total costs of inspection at these establishments. For those States that did not have a State voluntary program for ratites and squabs, the impact of a Federal mandatory inspection program is minimal. The payment of these costs at previously State inspected establishments is an income transfer similar to that occurring for Federally inspected establishments.

The total transfer payment to Federal and State establishments is \$2,252,000 (\$1,975,000 plus \$277,000).

TABLE 5.—RATITES AND SQUABS INSPECTION COST AT STATE ESTABLISHMENTS—FY 1999

Species	Number inspected	Total inspection hours required	Total cost of inspections ¹ (\$thousand)
Ratites	14,427	11,510	442.4

TABLE 5.—RATITES AND SQUABS INSPECTION COST AT STATE ESTABLISHMENTS—FY 1999—Continued

Species	Number inspected	Total inspection hours required	Total cost of inspections ¹ (\$thousand)
Squabs	1,122,131	2,912	111.9
Total	1,136,558	14,422	554.4

¹ FSIS hourly base rate of \$38.44 times inspection hours required.

Consumer Cost

In large part, the costs of ratite and squab inspection were transferred from producers to taxpayers. With the burden of paying for inspection service eliminated, establishments may transfer these cost savings to consumers through lower prices.

Economic Impact on International Trade Assessment

Countries that previously had little interest in export certification may petition FSIS because these additional species now come under mandatory inspection. Foreign establishments that specialize in exotic species may seek to broaden their markets by exporting to the United States. The Agency may need to evaluate the equivalence of a greater number of foreign food regulatory inspection systems.

Executive Order 12866 and Regulatory Flexibility Act

Because this final rule has been determined to be significant, the Office of Management and Budget (OMB) has reviewed it under Executive Order 12866.

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact, as defined by the Regulatory Flexibility Act (5 U.S.C. 601), on a substantial number of small entities.

Small establishments will not be adversely affected by this final rule. Few establishments slaughter and process ratites or squabs exclusively. For small slaughtering establishments as well as large ones, ratites and squabs do not comprise all or even most of their business. Of the 100 establishments that slaughter or process ratites and squabs, only two slaughter over 90% of the squabs consumed in the market. There are no establishments that dominate the slaughtering of ratites. Small entities will benefit along with the rest of the industry with the increased marketability of their product and the cost savings realized because they no longer have to pay fees to either FSIS or the State for voluntary inspection service.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This final rule: (1) Preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5 and 381.35, respectively, must be exhausted before any judicial challenge of the application of the provisions of this final rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the PPIA.

Executive Order 13132

Executive Order 13132, "Federalism," requires that agencies assess the federalism implications of their policy statements and actions, i.e., the effects of those statements and actions on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) preempt State and local laws in regard to the manufacture and distribution of meat and poultry products. Therefore, FSIS policy statements and actions affect federalism within the context of these statutory preemptions.

States and local jurisdictions are preempted by the FMIA and PPIA from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat and poultry products that are in addition to, or different than, those imposed under the FMIA and the PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are within their jurisdiction and outside official establishments for the purpose of preventing the distribution of meat and poultry products that are misbranded or adulterated under the FMIA and PPIA, or, in the case of imported articles, that are not at such an establishment, after their entry into the United States.

Specifically, under section 301 of the FMIA and section 5 of the PPIA, a State may administer State meat and poultry inspection programs provided that it has developed and is effectively enforcing State meat and poultry inspection requirements at least equal to those imposed under titles I and IV of the FMIA and sections 1-4, 6-10, and 12-22 of the PPIA. These titles contemplate continuous ongoing programs. When States can no longer effectively enforce meat and poultry inspection requirements at least equal to Federal requirements, they must be "designated" by the Secretary to receive Federal inspection.

When FSIS revises its meat and poultry inspection requirements, States that administer their own inspection programs may be affected, since they must continue to enforce requirements equal to those of FSIS. To minimize any additional costs States must incur to modify their inspection programs, FSIS grants the States significant flexibility under the "equal to" provisions of the FMIA and PPIA. Further, States are eligible to receive up to 50 percent Federal matching funds to cover the costs of their inspection programs.

Paperwork Reduction Act Requirements

The Office of Management and Budget has approved the paperwork and recordkeeping requirements under approval number 0583-0122.

Departmental Regulation 4300-4, "Civil Rights Impact Analysis"

FSIS has considered under Departmental Regulation 4300-4, "Civil Rights Impact Analysis," dated September 22, 1993, the potential civil rights impact of this final rule on minorities, women, and persons with disabilities.

The purpose of the final rule is to affirm the interim final rule (66 FR 22899) that included ratites and squabs under mandatory Poultry Products Inspection Regulations.

Congress mandated the inspection of ratites and squabs by April 26, 2001. The Agency promulgated an interim final rule that made all of the necessary changes to the mandatory poultry

products regulations to include ratites and squabs. This final rule affirms the interim final rule and makes two minor amendments to the regulations.

The requirements placed on the relatively small number of establishments that slaughter or process ratites or squabs are consistent with FSIS mandatory regulatory requirements for other species. The economic impacts on these establishment are in line with the benefits that the public should expect and with what the establishments should expect to recover as a result of moving from voluntary to mandatory inspection. For the overwhelming majority of establishments potentially affected by the move to mandatory inspection, the impacts will be beneficial.

Of the 7,500 Federal and State inspected meat and poultry establishments for which data are available, 317 are owned by females and 297 are owned by non-whites—or a total of about 4 percent of these establishments are female or minority owned. This compares to the 1992 Census figures for all U.S. firms which showed that minorities owned 6.3 percent and women owned 11.2 percent of businesses. No data are available at this time on the disabilities of the owners of meat and poultry establishments. Nor is any data available on the ownership of establishments that slaughter or process ratites and squabs.

There is no evidence to suggest that the establishments owned by minorities would be any more or less affected than establishments owned by non-minorities.

Neither will the final rule have a significant adverse impact on low-income consumers or minority employment. The costs associated with implementing the final rule will not be unduly burdensome to industry and will provide an economic benefit to the industry as a whole. Consumers may realize lower prices for ratites and squabs.

FSIS has used the available information to evaluate the potential impacts of the proposal on small entities and to determine civil rights impacts.

Additional Public Notice

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce

and provide copies of this **Federal Register** publication in the *FSIS Constituent Update*. FSIS provides a weekly *FSIS Constituent Update* via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at <http://www.fsis.usda.gov>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience than would be otherwise possible. For more information or to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720-5704.

List of Subjects in 9 CFR Part 381

Poultry and poultry products

Accordingly, the interim final rule published on May 7, 2001 (66 FR 22899) amending 9 CFR parts 362 and 381 is adopted as final, with the following changes:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for Part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451-470; 7 CFR 2.18, 2.53.

2. Section 381.1 (b) is amended by revising the definition of poultry to read as follows:

§ 381.1 Definition

* * * * *

Poultry. “Poultry” means any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or squabs, also termed young pigeons from one to about thirty days of age), whether live or dead.

* * * * *

3. Amend § 381.71 by revising paragraph (b) to read as follows:

§ 381.71 Coverage of all poultry and poultry products processed in official establishments.

* * * * *

(b) Dead-on-arrival ratites and ratites condemned on ante mortem inspection will be tagged “U.S. Condemned” by an establishment employee under FSIS supervision and disposed of by one of the methods prescribed in § 381.95.

* * * * *

4. Amend § 381.94 by revising paragraphs (a)(2)(ii), (a)(2)(iii)(B), (a)(2)(v)(A), Table 1 in paragraph (a)(5)(i), and Table 2 in paragraph (b)(1) as follows:

§ 381.94 Contamination with Microorganisms; process control verification criteria and testing; pathogen reduction standards.

(a) * * *

(2) * * *

(ii) *Sample collection.* A whole bird must be taken from the end of the chilling process. If this is impracticable, the whole bird can be taken from the end of the slaughter line. Samples must be collected by rinsing the whole carcass in an amount of buffer appropriate for that type of bird. Samples from turkeys or ratites also may be collected by sponging the carcass on the back and thigh.¹

(iii) * * * (B) Turkeys, Ducks, Geese, Guineas, Squabs, and Ratites: 1 sample per 3,000 carcasses, but at a minimum one sample each week of operation.

* * * * *

(v) * * * (A) Very low volume establishments annually slaughter no more than 440,000 chickens, 60,000 turkeys, 60,000 ducks, 60,000 geese, 60,000 guineas, 60,000 squabs, 6,000 ratites, or a combination of all types of poultry not exceeding 60,000 turkeys and 440,000 birds total. Very low volume establishments that slaughter turkeys, ducks, geese, guineas, squabs, or ratites in the largest number must collect at least one sample during each week of operation after June 1 of each year, and continue sampling at a minimum of once each week the establishment operates until June of the following year or until 13 samples have been collected, whichever comes first.

* * * * *

(5)(i) * * *

¹ A copy of FSIS’s “Guidelines for *Escherichia coli* Testing for Process Control Verification in Poultry Slaughter Establishments,” and “FSIS Turkey Microbiological Procedures for Sponge Sample Collection and Methods of Analysis” are available for inspection in the FSIS Docket Room.

TABLE 1.—EVALUATION OF E. COLI TEST RESULTS

Types of poultry	Lower limit of marginal range (m)	Upper limit of marginal range (M)	Number of samples tested (n)	Maximum number permitted in marginal range (c)
Chickens	¹ 100	1,000	13	3
Turkeys	*NA	*NA	*NA	*NA
Ducks	*NA	*NA	*NA	*NA
Geese	*NA	*NA	*NA	*NA
Guineas	*NA	*NA	*NA	*NA
Squabs	*NA	*NA	*NA	*NA
Ratites	*NA	*NA	*NA	*NA

¹ CFU/ml.

* Values will be added upon completion of data collection programs.

(b) * * *
(1) * * *

TABLE 2.—SALMONELLA PERFORMANCE STANDARDS

Class of product	Performance Standard (percent positive for salmonella) ^a	Number of samples tested (n)	Maximum number of positives to achieve standard (c)
Broilers	20.0%	51	12
Ground chicken	44.6	53	26
Ground turkey	49.9	53	29
Turkeys	^b NA	NA	NA
Squabs	^b NA	NA	NA
Ratites	^b NA	NA	NA

^a Performance Standards are FSIS's calculation of the national prevalence of Salmonella on the indicated raw products based on data developed by FSIS in its nationwide microbiological baseline data collection programs and surveys. (Copies of Reports on FSIS's Nationwide Microbiological Data Collection Programs and Nationwide Microbiological Surveys used in determining the prevalence of Salmonella on raw products are available in the FSIS Docket Room.)

^b Not available; baseline targets for turkeys, squabs, or ratites will be added upon completion of the data collection programs for that product.

* * * * *

Done at Washington, DC, on March 18, 2002.

Margaret O'K. Glavin,
Acting Administrator.

[FR Doc. 02-6836 Filed 3-21-02; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002-NM-75-AD; Amendment 39-12686; AD 2002-06-09]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A300; A300 B4-600, B4-600R, and F4-600R (Collectively Called A300-600); and A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is

applicable to all Airbus Model A300; A300-600; and A310 series airplanes. This action requires certain inspections of the airplane (including the vertical stabilizer, horizontal stabilizer, pylons, wing, and fuselage areas) following an in-flight incident resulting in extreme lateral loading. This action is necessary to detect and correct reduced structural integrity of the airplane following any future event. This action is intended to address the identified unsafe condition.

DATES: Effective April 8, 2002. Comments for inclusion in the Rules Docket must be received on or before May 21, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2002-NM-75-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-

iarcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2002-NM-75-AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

Information pertaining to this amendment may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, ANM-116, International Branch, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-2797; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: On November 12, 2001, an Airbus Model A300 B4-600R series airplane was involved in an accident shortly after takeoff from John F. Kennedy Airport, Jamaica, New York. During the accident event, the vertical stabilizer and rudder departed the airplane. The cause of this accident is under investigation by the National Transportation Safety Board